University of Miami Law Review

Volume 3 | Number 1 Article 15

12-1-1948

THE SUCCESSFUL PRACTICE OF LAW. By John Tracy. New York: Prentice Hall, Incorporated, 1948.

Bernard Hutner

The distinction between "freedom of speech" and "liberty of speech," between public and private free speech, flows easily from the pen; but, in the opinion of this reviewer, the weakest point in the Meiklejohn brief is the failure to consider the "twilight zone" of definition. Variance, quickly pointed up by examples, is not so easily distinguished in actual litigation.

The advertiser, merchant and trade unionist offer arguments in which the quality of self-interest is easily discerned by their opposition. Frequently, it can be diagnosed to the satisfaction of most "reasonable men." However, so astute an observer as Meiklejohn should not have failed to consider the sincerity with which individuals can identify their personal comfort with the general welfare. The Holmes dictum that "the best test of truth is the power of thought to get itself accepted in the competition of the market place" was too brusquely dismissed. It is easy to suggest that there is an immoral cast to such wholesale selfishness—more virtuous to demand that the citizen speak, think and vote for the entire commonwealth—but at times there is no surer road to public truth than the free exchange of egotistical proposals. If one hundred and forty million cry out when the shoe pinches, the body politic can at least be relieved of its corns.

Yet Meiklejohn's mournful cry that such a position destroys the basis of our education for "devotion to the general welfare" should not go unheeded. Recognition of sectional, economic and group motivation in public action need not become advocacy of ruthless self-interest. The legislative immunity which this discussion has bestowed upon public speech commands deeper respect than the "natural rights" doctrine of the 18th century. It involves far more than personal license; it is at once a tribute to each man and a command that he be honest, intelligent and worthy of the public ear.

EVE THOMAS INSTRUCTOR, DEPARTMENT OF HISTORY, UNIVERSITY OF MIAMI

THE SUCCESSFUL PRACTICE OF LAW. By John Tracy. New York: Prentice Hall, Incorporated, 1948. Pp. 469. $5.75.

THIS work presents a kaleidoscopic survey of the primary problem that confounds the young attorney, namely; how to be successful in his chosen field. Mr. Tracey runs the gamut of innumerable problems which beset the beginner, such as: what type of stationery to buy, where to keep the statutes in one's office, how to close a sale of real estate, where to locate one's office, how to obtain and keep clients, how to fix fees, and so forth.

Under one cover can be found the solution to literally hundreds of questions which confront the youthful practitioner. Its value, however, is not to the beginner alone, for its multitude of suggestions also challenges the present

methods of the experienced practitioner and promotes self-criticism which points to the road of professional advancement.

Perhaps there might be a double-barrelled criticism of Mr. Tracy's effort: (a) the field chosen is too broad in scope, (b) much of the material has been covered elsewhere.

This criticism would be invalid for it would overlook the essential nature of the book, that of a handbook for the attorney who requires mundane, practical advice in an easily accessible volume. The above criticism further disregards the basic design of a handbook which necessarily requires a broad scope, embracing many topics deserving of fuller discussion in other volumes. The value of a handbook is in its comprehensive coverage of a broad field and brevity of treatment as to individual problems.

This handbook is not only practical and thought-provoking, but is also surprisingly readable. Many parts will certainly bear rereading.

BERNARD HUTNER — MIAMI, FLORIDA

JUDICIAL DOCTRINES OF RELIGIOUS RIGHTS IN AMERICA. By William George Torpey. Chapel Hill: The University of North Carolina Press, 1948. Pp. 376. $5.00.

NOWHERE can the lawyer, educator, political scientist, or religious leader find so comprehensive and up-to-date an analysis of religious liberty as has been packed into this study of the history and judicial interpretation of one of the freedoms which distinguishes "the American Way of Life" from all others.

Freedom of religion is a completely American creation. Those who first colonized this country fled from persecutions, but brought their own form of restrictions upon the liberty of those who did not agree with them. Only after the Constitution itself was ratified, and as a result of pressure from the founding states, was the First Amendment adopted guaranteeing that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ." This Magna Carta of religious liberty does not, however, apply to state action. It was left for each state as such by Constitution and laws to guarantee freedom of religion. Not until adoption of the Fourteenth Amendment, in 1878, prohibiting states from abridging the privileges or immunities of citizens and granting equal protection of the law, did the Federal Government become charged with the responsibility of guaranteeing the right to worship God according to one's conscience. As other human rights, religious freedom is, in the course of history, sometimes partially lost. Its vindication has been in the courtroom, where its infringement has been prevented. The legal problems become involved when, under the constitutional guarantee of religious freedom, one claims an exemption from doing